

THE VACCINE CENTER LLC,)	
)	
Plaintiff(s),)	Case No. 2:12-cv-01849-JCM-NJK
)	
vs.)	ORDER SETTING HEARING ON
)	ORDER TO SHOW CAUSE
GLAXOSMITHKLINE LLC, et al.,)	
)	
Defendant(s).)	(Docket No. 162)

The Court sets this hearing to address several issues regarding the sealing of Docket No. 160. Defendants GlaxoSmithKline and Apexus seek an order allowing “redaction” of all of this 24-page document (except for the vaccine list at APEX000092-93). *See* Docket No. 163-2 (proposed redaction). It is clear that the publicly available vaccine list information cannot be sealed. It is less clear whether aspects of the exhibit not pertinent to the pending motion for summary judgment can be redacted based on the showing provided. In particular, Defendants GlaxoSmithKline and Apexus appear to argue that

1 a lesser showing needs to be made with respect to redactions not pertinent to the motions for summary
2 judgment, but the cited case law does not appear to address that issue.¹ Moreover, Defendants
3 GlaxoSmithKline and Apexus assert that the contract contains confidential and commercially sensitive
4 information, including pricing terms, fee structures, supply terms, and insurance requirements. *See*
5 Docket No. 163 at 3. But the showing does not specifically identify which aspects of the contract
6 contain this information. It appears that allowing “redaction” of all of this 24-page document (except
7 for the vaccine list at APEX000092-93) based on such an undifferentiated showing may run afoul of
8 Ninth Circuit law. *See The Vaccine Center LLC v. GlaxoSmithKline LLC*, 2013 U.S. Dist. Lexis 68298,
9 *9-10 & n. 5 (D. Nev. May 14, 2014) (discussing Ninth Circuit authority regarding redactions, including
10 authority indicating that sealing must be “narrowly tailored”); *see also NCAA Student-Athlete*, 2012 WL
11 5395039, at *1, 2 (requiring redactions to be limited to competitively sensitive terms and allowing
12 redaction of only parts of agreement).

13 IT IS SO ORDERED.

14 DATED: July 31, 2014

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16 NANCY J. KOPPE
17 United States Magistrate Judge
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24 ¹ Defendants GlaxoSmithKline and Apexus appear to make this argument, citing *In re NCAA*
25 *Student-Athlete Name and Likeness Licensing Litig.*, 2012 WL 5395039, *1 (N.D. Cal. Nov. 5, 2012).
26 But that opinion, a few lines below the portion cited by Defendants, rejects overly broad proposed
27 redactions and asserts that redactions must be “limited to competitively sensitive terms.” *Id.*; *see also id.*
28 (noting that redactions “have the virtue of being limited and clear” (quoting *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1183 (9th Cir. 2006)). Similarly, *Murphy v. Kavo America Corp.*, also cited, only allows for limited redaction because the Court must “narrowly tailor” its sealing orders. *See* 2012 WL 1497489, *2 (N.D. Cal. Apr. 27, 2012).